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PP RUEHDBU RUEHFL RUEHKW RUEHLA RUEHROV RUEHSR
DE RUEHVJ #1772 2161728
ZNY CCCCC ZZH
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FM AMEMBASSY SARAJEVO
TO RUEHC/SECSTATE WASHDC PRIORITY 4107
INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE PRIORITY
RUEKJCS/OSD WASHDC PRIORITY
RHEHNSC/NSC WASHDC PRIORITY
RUEKJCS/JCS WASHDC PRIORITY
RUFOAOA/USNIC SARAJEVO PRIORITY

C O N F I D E N T I A L SARAJEVO 001772

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EUR (DICARLO), D (SMITH), P (BAME), EUR/SCE (HOH, SAINZ, FOOKS), L (MANSFIELD, DOROSIN), NSC FOR BRAUN, USNIC FOR WEBER, GREGORIAN, OSD FOR FLORY

E.O. 12958: DECL: 07/28/2016

TAGS: [PGOV](#) [PREL](#) [BK](#)

SUBJECT: BOSNIA: BRCKO'S ITA BATTLE PROMPTS RETURN TO THE TRIBUNAL

Classified By: DCM Judith Cefkin for Reasons 1.4 (b) and (d).

[1](#)1. (U) This is an action request, please see paragraph 3.

[1](#)2. (C) A previously scheduled July 28 meeting between International Community members of the Brcko District working group was disrupted by the Indirect Taxation Authority Governing Board's (ITA GB) decision to change the allocation of revenue of Bosnia and Herzegovina's (BiH) single account. This decision prompted two reactions from Brcko District, whose allocation coefficient dropped from 3.79 percent to 2.9 percent. Brcko District announced intentions to file criminal charges against ITA GB Chairman Peter Nicholl and Director Kemal Causevic. More importantly, Brcko District also requested that the Tribunal rule immediately on whether it has jurisdiction to hear issues of non-compliance with the Final Award.

[1](#)3. (C) Though these are certainly steps backward, potentially jeopardizing the working group process, post has agreement from OHR-Sarajevo, OHR-Brcko and Brcko District officials that the working group should meet again in September in order to hash out a draft State Law on Brcko. OHR-Brcko and OHR-Sarajevo will each table draft laws in advance and have requested our assistance, as the working group facilitator, to reconcile the two drafts before the next meeting. The end product would be presented to the new parliament after the October 1 elections. (ACTION REQUEST: We need support from L to compile a consensus draft law, and to lead the parties through the drafting process in September.)

[1](#)4. (C) Between now and then our goal is to cool tempers and lay the ground work for a successful working group meeting in September. First, we hope to facilitate a productive meeting between Peter Nicholl and Brcko Mayor Djapo on August 23, which the two parties scheduled in response to Brcko's furious reaction to the ITA decision. Second, we will press the Council of Ministers (CoM) to present to parliament the proposed amendment to the Law on the Council of Ministers that would provide an enduring legal basis for the Brcko District Office in Sarajevo. Parliament should meet again on August 25-26, and it is possible, with enough pressure, it could act on the amendment. OHR Sarajevo has agreed to support this effort. At a minimum, any movement might demonstrate the "more serious engagement from the CoM" on Brcko issues, which Brcko is also demanding.

[1](#)5. (C) COMMENT: Brcko has been clear about the reason it has turned to the Tribunal in the wake of the ITA decision: it

hopes to put what it calls "constructive pressure" on the working group negotiating process. We have made clear that we believe this decision was unhelpful because once the Tribunal rules on one matter, in this case the ITA decision, it makes reaching an overarching and sustainable political solution to Brcko,s status more difficult. That said, some of Brcko,s complaints have merit; for example, the CoM has not engaged in the working group as constructively as it could have and its delay on the proposed amendment to the Law on the Council of Ministers strikes us as needlessly counterproductive. By calming passions now and teeing up a successful meeting of the working group in September, we might/might be able to keep this issue from getting worse between now and elections. This could set the stage for more constructive exchanges and substantial progress after October. END COMMENT.

MCELHANEY